

**REMARKS**

The Office Action mailed June 28, 2005, has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

**Rejection Under 35 U.S.C. § 101**

Claims 1 – 53 stand rejected as being allegedly directed to non-statutory subject matter. According to the Office Action, the term “parameter” in the claims is “non functional descriptive subject matter.” Applicants fail to see how the use of this term renders the claims non-statutory. From 35 U.S.C. § 101, non-statutory subject matter is that which not a new and useful process, machine, manufacture, or composition of matter, or a new and useful improvement thereof. In the present case, for instance in Claim 1, the invention includes a device having a module which supplies a reservation parameter. Such a device, which Applicants maintain is new and useful, falls squarely within the “machine” component of the statutory subject matter. The other claims are similarly direct to a new and useful “machine,” or to a new and useful method, which also falls within the “process” component of statutory subject matter. Therefore withdrawal of the 35 U.S.C. § 101, non-statutory subject matter rejection is respectfully requested.

### **Claim Objections**

The claims were objected to because more than one Claim 19 was provided. The claims have been renumbered to obviate this problem.

### **Rejection(s) Under 35 U.S.C. § 102**

Claims 1 – 53 stand rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by Gao et al. (U.S. pat. pub. no. 2004/83287, hereinafter, “Gao”).

Exemplary claim 1 has been amended to more specifically define the reservation parameter as relating to transmission of data by way of a direct communication channel between two wireless networking nodes and being alterable based on prior transmissions of data along the same communication channel. This feature is not disclosed in Gao, which is directed to a signaling protocol used by a host to request specific QoS from the network for particular data streams. The “network” in Gao includes one or more routers 110 and, inherently, numerous possible pathways or channels which it is the object of Gao to optimize by finding the most direct and least congested route. The purpose of Gao’s dynamic reservation algorithm (Gao, para. [0054]) is to get around bottlenecks by finding alternate, more efficient channels in order to comply with the requested QoS constraints. This is unlike the direct communication channel between the transmitting and receiving devices of the invention, and unlike the changes made to

the reservation parameter based on prior transmissions along the same direct communication channel.

It will be appreciated that, according to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102 only if each and every claim element is found, either expressly or inherently described, in a single prior art reference.<sup>1</sup> The aforementioned reasons clearly indicate the contrary, and withdrawal of the 35 U.S.C. § 102 rejection of Claims 1 – 53 based on Gao is respectfully urged.

### **Conclusion**

In view of the preceding discussion, Applicants respectfully urge that the claims of the present application define patentable subject matter and should be passed to allowance.

If the Examiner believes that a telephone call would help advance prosecution of the present invention, the Examiner is kindly invited to call the undersigned attorney at the number below.

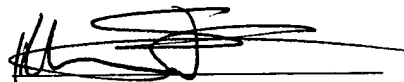
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<sup>1</sup> Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Please charge any additional required fees, including those necessary to obtain extensions of time to render timely the filing of the instant Amendment and/or Reply to Office Action, or credit any overpayment not otherwise credited, to our deposit account no. 50-1698.

Respectfully submitted,  
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Dated: 11/28/05

  
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